

1 Victoria L. Nelson, Chapter 7 Trustee
2 Email: trustee@nelsonhoumand.com
3 3900 Paradise Road; Suite U
4 Las Vegas, Nevada 89169-0903
5 Telephone: 702/720-3370
6 Facsimile: 702/720-3371

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8 *Chapter 7 Trustee*

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

WILLIAM A. GAYLER,

Debtor.

Case No. BK-S-09-31603-MKN
Chapter 7

CHAPTER 7 TRUSTEE'S APPLICATION
TO EMPLOY ANDERSEN LAW FIRM,
LTD., *NUNC PRO TUNC*, AS GENERAL
BANKRUPTCY COUNSEL PURSUANT
TO 11 U.S.C. §§ 327(a) AND 328(a)
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 2014

Date of Hearing: July 24, 2014
Time of Hearing: 11:00 a.m.
Place: Courtroom No. 2, Third Floor
Foley Federal Building
300 Las Vegas Blvd., S.
Las Vegas, NV 89101

Judge: Honorable Mike K. Nakagawa

Victoria L. Nelson, the court appointed Chapter 7 Trustee in the above-referenced
bankruptcy case (the "Trustee"), submits this Application to Employ Andersen Law Firm, Ltd.
nunc pro tunc, as General Bankruptcy Counsel Pursuant to 11 U.S.C. §§ 327(a) and 328(a) and

1 Federal Rule of Bankruptcy Procedure 2014 (the “Application”).¹

2 This Application is filed pursuant to 11 U.S.C. §§ 327 and 328 and Federal Rule of
3 Bankruptcy Procedure 2014. The Application is based on the following Memorandum of Points
4 and Authorities, the Declaration of Victoria L. Nelson In Support of Application to Employ
5 Andersen Law Firm, Ltd. *nunc pro tunc*, as General Bankruptcy Counsel Pursuant to 11 U.S.C.
6 §§ 327(a) and 328(a) and Federal Rule of Bankruptcy Procedure 2014 (the “Nelson Declaration”),
7 and the Declaration of Ryan Andersen, Esq. In Support of the Application to Employ Andersen
8 Law Firm, Ltd. *nunc pro tunc*, as General Bankruptcy Counsel Pursuant to 11 U.S.C. §§ 327(a)
9 and 328(a) and Federal Rule of Bankruptcy Procedure 2014 (the “Andersen Declaration”), both of
10 which are filed separately and concurrently with this Court pursuant to Local Rule 9014(c)(2).
11 The Application is also based on the pleadings and papers on file herein, and any argument that
12 may be entertained at the hearing on the Motion.²

13 Dated this 28th day of May, 2014.

14 **CHAPTER 7 TRUSTEE**

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16 /s/ Victoria L. Nelson

17 Victoria L. Nelson, Esq. (NV Bar No. 5436)
18 3900 Paradise Road; Suite U
19 Las Vegas, Nevada 89169-0903
20 Telephone: 702/720-3370
21 Facsimile: 702/720-3371

22 *Chapter 7 Trustee*

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25 ¹ Unless otherwise indicated, all chapter and section references are to the Bankruptcy Code, 11
26 U.S.C. §§ 101-1532, and to the Federal Rules of Bankruptcy Procedure, Rules 1001-9037. The
27 Federal Rules of Civil Procedure will be referred to as “FRCP” and the Federal Rules of
28 Bankruptcy Procedure will be referred to as “FRBP.”

² The Trustee also requests that the Court take judicial notice of all pleadings filed in the above-
referenced bankruptcy case, including adversary proceedings, pursuant to Rule of Evidence 201,
incorporated by reference by Federal Rule of Bankruptcy Procedure 9017.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. STATEMENT OF FACTS**

3 1. On November 16, 2009, an involuntary petition was filed against William A.
4 Gayler (the “Debtor”) under Chapter 7 of Title 11 of the United States Code [Docket No. 1]. *See*
5 Nelson Declaration.

6 2. On March 29, 2010, the Court entered an Order for Relief In Involuntary Case that
7 placed the Debtor in a bankruptcy case under Chapter 7 of Title 11 of the United States Code
8 [Docket No. 85]. *See* Nelson Declaration.

9 3. On March 29, 2010, James F. Lisowski was appointed as the Chapter 7 Trustee in
10 the Debtor’s bankruptcy case [Docket No. 86]. *See* Nelson Declaration.

11 4. On December 13, 2012, David A. Rosenberg was appointed as the successor
12 Chapter 7 Trustee in the Debtor’s bankruptcy case. *See* Nelson Declaration.

13 5. On April 21, 2014, Victoria L. Nelson was appointed as the successor Chapter 7
14 Trustee in the Debtor’s bankruptcy case. *See* Nelson Declaration.

15 6. In order to permit the Trustee to fulfill her statutory obligations under Section 704,
16 she now desires to employ the law firm of Andersen Law, Ltd. (the “Firm”), *nunc, pro tunc*, as
17 general bankruptcy counsel in the Debtor’s bankruptcy case.³ *See* Nelson Declaration.

18 **II. JURISDICTION AND VENUE**

19 7. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1134.
20 This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). The statutory basis for the relief
21 sought is Section 327, 1104 and 1106 of the Bankruptcy Code and FRBP 2014. Venue of
22 Debtor’s Chapter 7 case in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

23 **III. THE FIRM**

24 8. The Firm is well suited for the type of representation required by the Trustee. The
25 Firm specializes in insolvency and reorganization matters, particularly the representation of
26 Chapter 7 Trustees in bankruptcy cases. Attorneys associated with the Firm have represented
27

28 ³ This Application seeks authority to employ the Firm effective as of May15, 2014, in order to
account for time expended analyzing the issues in the Debtor’s bankruptcy case.

1 debtors, Chapter 7 Trustees, various committees and other parties-in-interest, and is qualified to
2 act as attorneys for the Trustee. Accordingly, the Trustee has determined that the Firm has the
3 resources and experience necessary to represent it in this case.

4 9. The attorneys of the Firm that will render services in relation to the above-
5 referenced bankruptcy case are familiar with the United States Bankruptcy Code, the Federal
6 Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, and the Local Rules and
7 will comply with them, as well as the procedures set forth in the "Guide to Applications for
8 Professional Compensation," promulgated by the Office of the United States Trustee (the "U.S.
9 Trustee") with regard to compensation of professionals.

10 10. The attorneys employed by the Firm are duly admitted to practice before this
11 Court.

12 11. The Trustee desires to employ the Firm as her general counsel in this bankruptcy
13 case to render the following professional services:

- 14 (a) To investigate the financial affairs of the Debtor and
15 determine if there are any preferential transfers, fraudulent
16 conveyances, or turnover actions that may be filed on behalf
of the bankruptcy estate pursuant to 11 U.S.C. §§ 542, 544,
547, and 548.
- 17 (b) To prosecute any and all preferential transfers, fraudulent
18 conveyances, or turnover actions that may be filed on behalf
of the bankruptcy estate pursuant to 11 U.S.C. §§ 542, 544,
547, and 548.
- 19 (c) To advise the Trustee of her rights and obligations and
20 performance of her duties during the administration of this
21 bankruptcy case;
- 22 (d) To represent the Trustee in all proceedings before this Court
23 and any other court which assumes jurisdiction of a matter
related to or arising in this bankruptcy case;
- 24 (e) To assist the Trustee in the performance of her duties as set
25 forth in 11 U.S.C. §§ 1104 and 1106;
- 26 (f) To assist the Trustee in developing legal positions and
27 strategies with respect to all facets of these proceedings; and
- 28 (g) To provide such other counsel and advice as the Trustee
may require in connection with this bankruptcy case.

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2 12. The Trustee has selected the Firm because its attorneys have experience in matters
3 of this character, are familiar with bankruptcy practice and are qualified to represent the Trustee
4 in this case.

5 13. Following the Trustee's request that the Firm represent her in this case as general
6 bankruptcy counsel, a conflicts check was undertaken, utilizing the Firm's client list. Based upon
7 the conflicts check the Firm and its associates are "disinterested persons" as defined by 11 U.S.C.
8 § 101 and do not hold or represent any interest adverse to the bankruptcy estate.

9 14. The conclusion that the Firm is a "disinterested" person within the meaning of 11
10 U.S.C. § 101(14) for purposes of 11 U.S.C. § 327(a) is based upon the fact neither the Firm nor
11 any of its attorneys:

- 12 (a) Are or were a creditor, equity security holder, or insider of
13 the Debtor;
- 14 (b) Are or were, within two (2) years before the date of the
15 filing the bankruptcy petition, a director, officer or
16 employee of Debtor as specified in subparagraph (c) of
17 Section 101(14);
- 18 (c) Hold, or have ever held, an interest materially adverse to the
19 interest of the estate or of any class of creditors, equity
20 holders, or parties in interest, by reason of any direct or
21 indirect relationship to, or interest in, the Debtor or for any
22 other reason except as stated herein;
- 23 (d) Represent, or have ever represented, the Debtor, insiders of
 the Debtor, creditors of the Debtor, any other party in
 interest, or their respective attorneys and accountants except
 as set forth herein; and
- (d) Is a relative or employee of the U.S. Trustee or a
 Bankruptcy Judge except as stated herein.

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25 15. The Firm represents no interest that is adverse to the Trustee, to the Debtor's
26 estate, any creditor, any party in interest, the U.S. Trustee, or any attorney or accountant
27 employed by the foregoing, in matters upon which it will be engaged as counsel.

28 ...

V. CONCLUSION

WHEREFORE, the Trustee respectfully requests that she be authorized to employ the law firm of Andersen Law, Ltd., *nunc pro tunc*, as General Counsel, to represent the Trustee in this bankruptcy proceeding upon the terms set forth in this Application with payment of all fees and costs by the estate subject to notice and hearing and approval of this Court and for such other and further relief as is just and proper.

Dated this 28th day of May, 2014.

CHAPTER 7 TRUSTEE

/s/ Victoria L. Nelson

Victoria L. Nelson, Esq. (NV Bar No. 5436)
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Chapter 7 Trustee